

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN**

KIMBERLY BALTIERRA,

Plaintiff

Case No. 24-cv-11433

v.

Hon.

ORGAN PROCUREMENT AGENCY
OF MICHIGAN, a Michigan Corporation,
d/b/a GIFT OF LIFE MICHIGAN,
and BRUCE NICELY, individually,

*Removed from:
Washtenaw Circuit Court
Case No. 24-000558-CD*

Defendants.

Kathleen L. Bogas (P25164)
BOGAS & KONCIUS P.C
31700 Telegraph Road, Suite 160
Bingham Farms, MI 48025
(248) 502-5000
office@kbogaslaw.com
Attorneys for Plaintiff

Brett J. Miller (P68612)
BUTZEL LONG, a professional
corporation
150 W. Jefferson, Suite 100
Detroit, MI 48226
P: 313-225-5316 / F: 313-225-7080
millerbr@butzel.com
Attorneys for Defendants

NOTICE OF REMOVAL

Defendants ORGAN PROCUREMENT AGENCY OF MICHIGAN, a Michigan Corporation, d/b/a GIFT OF LIFE MICHIGAN, and BRUCE NICELY, individually (hereinafter “Defendants”), by their attorneys, Butzel Long, P.C., hereby removes this case from the Circuit Court for the County of Washtenaw,

Washtenaw County, Michigan to the United States District Court for the Eastern District of Michigan, and in support of such removal, states as follows:

1. Plaintiff KIMBERLY BALTIERRA (“Plaintiff”) filed this action in the Circuit Court for the County of Washtenaw on or around May 7, 2024, 2024, entitled *Kimberly Baltierra v. ORGAN PROCUREMENT AGENCY OF MICHIGAN, a Michigan Corporation, d/b/a GIFT OF LIFE MICHIGAN, and BRUCE NICELY*, individually. Case Number 24-000558-CD (“Washtenaw County Action”) (**Exhibit A**, Pleadings) alleging AGE DISCRIMINATION IN VIOLATION OF THE ADEA (Defendant Give of Life Michigan) and AGE AND/OR GENDER DISCRIMINATION IN VIOLATION OF THE ELCRA (All Defendants) under Michigan law.

2. On or around May 10, 2024, Defendants were served with a copy of the Summons and Original Complaint. **Exhibit B**.

3. The attached Complaint, together with the Summons, constitutes all process, pleadings and orders served on to date. *See* Washtenaw County Circuit Court Docket Sheet attached hereto as **Exhibit C**.

4. As this Notice of Removal is being filed within 30 days of Defendants’ receipt of the Complaint, this removal is timely under 28 U.S.C. § 1446(b).

5. Pursuant to 28 U.S.C. § 1441(a), the United States District Court for the Eastern District of Michigan is the federal district court embracing the place where the state court suit is pending, and where the alleged claim arose.

6. This Notice is filed pursuant to 28 U.S.C. §§ 1331, 1441, and 1446, which provide for removal of any civil action in which the United States District Court has original jurisdiction.

7. The instant matter is removable because it could have been filed originally in this Court pursuant to 28 U.S.C. § 1331, as this Court has federal question jurisdiction over Plaintiff's Complaint because her Complaint alleges violations of the Age Discrimination in Employment Act, 29 USC 623 *et seq.*, and the Michigan Elliott-Larsen Civil Rights Act, MCL 37.2201, *et seq.*

8. Accordingly, Plaintiff's allegations in her Complaint are "founded on a claim or right arising under the Constitution, treaties or laws of the United States" and are, therefore, properly removed to this Court. 28 U.S.C. § 1441(b). 28 U.S.C. § 1331 grants jurisdiction without respect to the amount in controversy or the citizenship of the parties.

9. Defendants are serving written notice of the filing of this Notice of and Petition for Removal upon Plaintiff, and will cause a copy of this Notice to be filed with the Clerk of the Circuit Court of Washtenaw County, State of Michigan, in

accordance with 28 U.S.C. § 1446(d). *See* Defendant's Notice of Filing Notice of Removal attached hereto as **Exhibit D**.

WHEREFORE, Defendants give notice that the above-captioned action now pending against it in the Circuit Court for the County of Washtenaw, State of Michigan, is hereby removed therefrom to this Court on the basis of federal question jurisdiction.

Respectfully submitted,

BUTZEL LONG, a professional corporation

By: /s/ Brett J. Miller

Brett J. Miller (P68612)

Attorneys for Defendant

150 West Jefferson Avenue, Suite 100

Detroit, MI 48226

(313) 225-7000

millerbr@butzel.com

Dated: May 30, 2024

CERTIFICATE OF SERVICE

I hereby certify that on May 30, 2024, I electronically filed the foregoing document with the Clerk of the Court using the ECF system, and a copy of same was mailed by United States Postal Service to:

Kathleen L. Bogas
BOGAS & KONCIUS P.C
31700 Telegraph Road, Suite 160
Bingham Farms, MI 48025

By: s/ Brett J. Miller
Brett J. Miller (P68612)

EXHIBIT A

**STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WASHTENAW**

KIMBERLY BALTIERRA,

Plaintiff,

Case No.24-000558-CD

Judge: JUDGE JULIA B. OWDZIEJ

-v-

ORGAN PROCUREMENT AGENCY
OF MICHIGAN, a Michigan Corporation,
d/b/a GIFT OF LIFE MICHIGAN,
and BRUCE NICELY, individually,

Defendants.

BOGAS & KONCIUS P.C.
KATHLEEN L. BOGAS (P25164)
Attorneys for Plaintiff
31700 Telegraph Road, Suite 160
Bingham Farms, MI 48025
(248) 502-5000
office@kbogaslaw.com

COMPLAINT AND JURY DEMAND

NOW COMES Plaintiff KIMBERLY BALTIERRA, by and through her
attorneys, Bogas & Koncius P.C., and states as follows:

PARTIES AND JURISDICTION

1. Plaintiff is a resident of the United States, resides in St. Clair County,
Michigan, and is currently 56 years of age.

2. Defendant ORGAN PROCUREMENT AGENCY OF MICHIGAN d/b/a Gift of Life Michigan (hereinafter referred to as “GIFT OF LIFE MICHIGAN”) is a domestic corporation, has its headquarters in Ann Arbor, Washtenaw County, Michigan, does business as GIFT OF LIFE MICHIGAN, and has continuously had at least 15 employees at all relevant times.

3. Defendant BRUCE NICELY (hereinafter referred to as “Nicely”) is the Vice-President of Donation Optimization of Defendant Gift of Life of Michigan and, at all relevant times, was Plaintiff’s supervisor. Upon information and belief, Defendant Nicely is a resident of Wayne County, Michigan.

4. This is an action for discrimination and retaliation in violation of the Age Discrimination in Employment Act (“ADEA”), and Michigan’s Elliot-Larsen Civil Rights Act (“ELCRA”).

5. At all relevant times, Defendant Gift of Life Michigan was an employer and Plaintiff was its employee within the meaning of the ADEA and the ELCRA.

6. At all relevant times, Defendant Nicely was an employer and Plaintiff was his employee within the meaning of the ELCRA.

GENERAL ALLEGATIONS

7. Plaintiff incorporates by reference herein the allegations contained in

the foregoing paragraphs.

8. Plaintiff commenced her employment with Defendants on or about March 8, 2008.

9. At all times relevant hereto, Plaintiff was employed with Defendant Gift of Life of Michigan in various roles, ultimately being promoted to Director of Organ Services, reporting directly to Defendant Nicely.

10. At all times relevant hereto, Plaintiff performed her job diligently and in an exemplary manner, as all performance reviews acknowledge.

11. Plaintiff is a female and 56 years old and was that age at the time of her termination.

12. Defendant Nicely has treated numerous female employees, particularly women over the age of 40, in a discriminatory and retaliatory manner, eventually terminating their employment, removing them from their positions, and/or making their working conditions so intolerable they either quit or transferred to another position at Defendant Gift of Life Michigan.

13. Defendant Nicely has cultivated and maintained a “good ole boys” club mentality at Gift of Life Michigan.

14. Defendant Nicely, in spite of Plaintiff’s stellar work performance and appraisals, began a campaign to intimidate and harass Plaintiff, creating a hostile

work environment, in an attempt to force Plaintiff to quit or to ultimately terminate her employment.

15. Defendant Nicely falsely accused Plaintiff of refusing to obey a directive he gave, which shortly thereafter pertained to an area given to another director to supervise. Defendant Nicely subsequently rescinded his directive but later falsely accused Plaintiff of defying it.

16. Defendant Nicely falsely accused Plaintiff of unilaterally revising protocols which allegation was untrue.

17. Defendant Nicely falsely accused Plaintiff of mishandling the discipline of an employee which allegation was untrue, in that Plaintiff only made a recommendation that was consistent with the severity of the infraction of the employee and past practice.

18. Plaintiff considered filing a complaint against Defendant Nicely with the Human Resources Department but was fearful for her job as it was known to her and others that Defendant Nicely stated he was “pissed” when employees went to Human Resources, and an employee should not go to Human Resources. He also planned to move an employee who complained to Human Resources under another director.

19. Defendant Nicely and Defendant Gift of Life Michigan padded Plaintiff's personnel file with false, backdated documents after they became aware that Plaintiff had retained an attorney.

20. On February 21, 2024 Defendant Nicely, abruptly and without notice notified Plaintiff that she was being terminated from her employment because Plaintiff failed to eliminate a staffing sheet, which allegation was false. Subsequently Defendant Nicely and Defendant Gift of Life Michigan, in shifting reasons for termination, provided other equally false claims for her termination.

COUNT I
AGE DISCRIMINATION IN VIOLATION OF THE ADEA
(Defendant Gift of Life Michigan)

21. Plaintiff incorporates by reference the foregoing paragraphs as if fully set forth at length herein.

22. While employed by Defendant Gift of Life Michigan, Plaintiff was subjected to age discrimination by Defendant Gift of Life Michigan, by and through its agents, servants and/or employees, said acts being made unlawful by the ADEA.

23. Defendant Gift of Life Michigan, by its agents, representatives, and/or employees, was predisposed to discriminate on the basis of age and acted in accordance with that predisposition in terminating Plaintiff's employment.

24. If Plaintiff had been younger, she would not have been terminated.

25. Defendant Gift of Life Michigan's actions in violation of the ADEA were willful.

26. As a direct and proximate result of Defendant Gift of Life Michigan's violation of the ADEA, Plaintiff has suffered emotional and physical distress/anguish, loss of reputation, humiliation and embarrassment and will so suffer in the future.

27. As a further direct and proximate result of Defendant Gift of Life Michigan's violation of the ADEA, Plaintiff has been placed in financial distress and has suffered a loss of earnings and benefits, and a loss of and impairment of her earning capacity and ability to work, and will so suffer in the future; she has been required to employ the services of an attorney to bring this lawsuit and will suffer additional damages in the future.

COUNT II
AGE AND/OR GENDER DISCRIMINATION
IN VIOLATION OF THE ELCRA
(All Defendants)

28. Plaintiff incorporates by reference the foregoing paragraphs as if fully set forth at length herein.

29. While employed by Defendants, Plaintiff was subjected to age and/or gender discrimination by Defendants by and through its agents, servants and/or employees, said acts being made unlawful by the ELCRA.

30. Defendant Nicely was predisposed to discriminate on the basis of age

and/or gender and acted in accordance with that predisposition in terminating Plaintiff's employment.

31. If Plaintiff had been younger and male, she would not have been terminated in the manner described.

32. Defendants' actions in violation of the ELCRA were willful.

33. As a direct and proximate result of Defendants' violation of the ELCRA, Plaintiff has suffered emotional and physical distress/anguish, loss of reputation, humiliation and embarrassment and will so suffer in the future.

34. As a further direct and proximate result of Defendants' violation of the ELCRA, Plaintiff has been placed in financial distress and has suffered a loss of earnings and benefits, and a loss of and impairment of her earning capacity and ability to work, and will so suffer in the future; she has been required to employ the services of an attorney to bring this lawsuit and will suffer additional damages in the future.

RELIEF REQUESTED

For all of the foregoing reasons, Plaintiff demands judgment against Defendants as follows:

1. Compensatory damages in whatever amount she is found to be entitled;

2. Exemplary and punitive damages in whatever amount she is found to be entitled;
3. A judgment for lost wages and benefits, past and future, in whatever amount she is found to be entitled; and
4. An award of interest, costs and reasonable attorney fees.

BOGAS & KONCIUS P.C.

By: /s/ KATHLEEN L. BOGAS
KATHLEEN L. BOGAS (P25164)
Attorneys for Plaintiff
31700 Telegraph Rd, Ste 160
Bingham Farms, MI 48025
(248) 502-5000
office@kbogaslaw.com

Date: May 7, 20224

**STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR
THE COUNTY OF WASHTENAW**

KIMBERLY BALTIERRA,

Plaintiff,

Case No. ²⁴-000558-CD

-v-

Judge: JUDGE JULIA B. OWDZIEJ

ORGAN PROCUREMENT AGENCY
OF MICHIGAN, a Michigan Corporation,
d/b/a GIFT OF LIFE MICHIGAN,
and BRUCE NICELY, individually,

Defendants.

_____/

BOGAS & KONCIUS P.C.
KATHLEEN L. BOGAS (P25164)
Attorneys for Plaintiff
31700 Telegraph Road, Suite 160
Bingham Farms, MI 48025
(248) 502-5000
office@kbogaslaw.com

_____ /

JURY DEMAND

Plaintiff KIMBERLY BALTIERRA, by and through her attorneys, Bogas &
Koncius P.C., hereby demands a jury trial on all issues.

FILED IN Washtenaw County Trial Court; 5/7/2024 10:26 AM

BOGAS & KONCIUS P.C.

By: /s/ KATHLEEN L. BOGAS
KATHLEEN L. BOGAS (P25164)
Attorneys for Plaintiff
31700 Telegraph Rd, Ste 160
Bingham Farms, MI 48025
(248) 502-5000
office@kbogaslaw.com

Date: May 7, 2024

EXHIBIT B

Approved, SCAO

Original - Court
1st copy - Defendant2nd copy - Plaintiff
3rd copy - Return

STATE OF MICHIGAN JUDICIAL DISTRICT Washtenaw JUDICIAL CIRCUIT Washtenaw COUNTY		SUMMONS	CASE NO. Q9NWWNOC 24-000558-CD JUDGE JULIA B. OWDZIEJ
Court address			Court telephone no.

Plaintiff's name, address, and telephone no.

 Kimberly Baltierra
 8866 Morris Road
 Goodells MI 48027

Defendant's name, address, and telephone no.

 Bruce Nicely
 19000 Parkside
 Detroit, MI 48226

v

Plaintiff's attorney, bar no., address, and telephone no.

 Kathleen L. Bogas (P25164)
 31700 Telegraph Rd., Ste. 160
 Bingham Farms, MI 48025
 248-502-5000

Instructions: Check the items below that apply to you and provide any required information. Submit this form to the court clerk along with your complaint and, if necessary, a case inventory addendum (MC 21). The summons section will be completed by the court clerk.

Domestic Relations Case

- ☒ There are no pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint.
- ☐ There is one or more pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint. I have separately filed a completed confidential case inventory (MC 21) listing those cases.
- ☐ It is unknown if there are pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint.

Civil Case

- ☐ This is a business case in which all or part of the action includes a business or commercial dispute under MCL 600.8035.
- ☐ MDHHS and a contracted health plan may have a right to recover expenses in this case. I certify that notice and a copy of the complaint will be provided to MDHHS and (if applicable) the contracted health plan in accordance with MCL 400.106(4).
- ☐ There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint.
- ☐ A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has

 been previously filed in ☐ this court, ☐ _____ Court, where

it was given case number _____ and assigned to Judge _____

 The action ☐ remains ☐ is no longer pending.

Summons section completed by court clerk.

SUMMONS**NOTICE TO THE DEFENDANT:** In the name of the people of the State of Michigan you are notified:

1. You are being sued.
2. **YOU HAVE 21 DAYS** after receiving this summons and a copy of the complaint to **file a written answer with the court** and serve a copy on the other party **or take other lawful action with the court** (28 days if you were served by mail or you were served outside of Michigan).
3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.
4. If you require accommodations to use the court because of a disability or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.

Issue date 5/7/2024	Expiration date* 8/6/2024	Court clerk /s/ Lawrence Kestenbaum	/s/ Kim Plumb May 7, 2024
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*This summons is invalid unless served on or before its expiration date. This document must be sealed by the seal of the court.

24-000558-CD

Summons (3/23)

Case No. Q9NWWNOC**PROOF OF SERVICE**

TO PROCESS SERVER: You must serve the summons and complaint and file proof of service with the court clerk before the expiration date on the summons. If you are unable to complete service, you must return this original and all copies to the court clerk.

CERTIFICATE OF SERVICE / NONSERVICE

- ☐ I served ☐ personally ☐ by registered or certified mail, return receipt requested, and delivery restricted to the addressee (copy of return receipt attached) a copy of the summons and the complaint, together with the attachments listed below, on:
- ☐ I have attempted to serve a copy of the summons and complaint, together with the attachments listed below, and have been unable to complete service on:

Name	Date and time of service
Place or address of service	
Attachments (if any)	

- ☐ I am a sheriff, deputy sheriff, bailiff, appointed court officer or attorney for a party.
- ☐ I am a legally competent adult who is not a party or an officer of a corporate party. I declare under the penalties of perjury that this certificate of service has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

Service fee	Miles traveled	Fee	
\$		\$	
Incorrect address fee	Miles traveled	Fee	TOTAL FEE
\$		\$	\$

Signature

Name (type or print)

ACKNOWLEDGMENT OF SERVICE

I acknowledge that I have received service of a copy of the summons and complaint, together with

Attachments (if any) _____ on May 10, 2024
Date and time



Signature

on behalf of Bruce NicelyBrett Miller

Name (type or print)

Approved, SCAO

Original - Court
1st copy - Defendant2nd copy - Plaintiff
3rd copy - Return

STATE OF MICHIGAN JUDICIAL DISTRICT Washtenaw JUDICIAL CIRCUIT Washtenaw COUNTY		SUMMONS	CASE NO. Q9NWWNOC 24-000558-CD JUDGE JULIA B. OWDZIEJ
Court address		Court telephone no.	

Plaintiff's name, address, and telephone no. Kimberly Baltierra 8866 Morris Road Goodells MI 48027
Plaintiff's attorney, bar no., address, and telephone no. Kathleen L. Bogas (P25164) 31700 Telegraph Rd., Ste. 160 Bingham Farms, MI 48025 248-502-5000

v

Defendant's name, address, and telephone no. Organ Procurement Agency of Michigan Ladora A. Dils 3861 Research Park Dr. Ann Arbor, MI 48108

Instructions: Check the items below that apply to you and provide any required information. Submit this form to the court clerk along with your complaint and, if necessary, a case inventory addendum (MC 21). The summons section will be completed by the court clerk.

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- ☐ There is one or more pending or resolved cases within the jurisdiction of the family division of the circuit court involving the family or family members of the person(s) who are the subject of the complaint. I have separately filed a completed confidential case inventory (MC 21) listing those cases.
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- ☐ This is a business case in which all or part of the action includes a business or commercial dispute under MCL 600.8035.
- ☐ MDHHS and a contracted health plan may have a right to recover expenses in this case. I certify that notice and a copy of the complaint will be provided to MDHHS and (if applicable) the contracted health plan in accordance with MCL 400.106(4).
- ☐ There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint.
- ☐ A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has

been previously filed in ☐ this court, ☐ _____ Court, where

it was given case number _____ and assigned to Judge _____

The action ☐ remains ☐ is no longer pending.

Summons section completed by court clerk.

SUMMONS

NOTICE TO THE DEFENDANT: In the name of the people of the State of Michigan you are notified:

1. You are being sued.
2. **YOU HAVE 21 DAYS** after receiving this summons and a copy of the complaint to **file a written answer with the court** and serve a copy on the other party **or take other lawful action with the court** (28 days if you were served by mail or you were served outside of Michigan).
3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.
4. If you require accommodations to use the court because of a disability or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.

Issue date 5/7/2024	Expiration date* 8/6/2024	Court clerk /s/ Lawrence Kestenbaum	/s/ Kim Plumb May 7, 2024
------------------------	------------------------------	----------------------------------------	------------------------------

*This summons is invalid unless served on or before its expiration date. This document must be sealed by the seal of the court.

24-000558-CD

Summons (3/23)

Case No. Q9NWWNOC**PROOF OF SERVICE**

TO PROCESS SERVER: You must serve the summons and complaint and file proof of service with the court clerk before the expiration date on the summons. If you are unable to complete service, you must return this original and all copies to the court clerk.

CERTIFICATE OF SERVICE / NONSERVICE

- ☐ I served ☐ personally ☐ by registered or certified mail, return receipt requested, and delivery restricted to the addressee (copy of return receipt attached) a copy of the summons and the complaint, together with the attachments listed below, on:
- ☐ I have attempted to serve a copy of the summons and complaint, together with the attachments listed below, and have been unable to complete service on:

Name	Date and time of service
Place or address of service	
Attachments (if any)	

- ☐ I am a sheriff, deputy sheriff, bailiff, appointed court officer or attorney for a party.
- ☐ I am a legally competent adult who is not a party or an officer of a corporate party. I declare under the penalties of perjury that this certificate of service has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

Service fee	Miles traveled	Fee	
\$		\$	
Incorrect address fee	Miles traveled	Fee	TOTAL FEE
\$		\$	\$

Signature

Name (type or print)

ACKNOWLEDGMENT OF SERVICE

I acknowledge that I have received service of a copy of the summons and complaint, together with

Attachments (if any) _____ on May 10, 2024
 Date and time
Brett Miller on behalf of Organ Procurement Agency of Michigan,
 Signature d/b/a Gift of Life Michigan
Brett Miller
 Name (type or print)

EXHIBIT C

REGISTER OF ACTIONS

CASE No. 24-000558-CD

Baltierra, Kimberly vs Organ Procurement Agency of Michigan et al

§
§
§
§
§

Case Type: **Employment Discrimination (CD)**
Date Filed: **05/07/2024**
Location: **Civil**
Judicial Officer: **Owdziej, Julia B.**

PARTY INFORMATION

		Attorneys
Defendant	Nicely, Bruce	
Defendant	Organ Procurement Agency of Michigan <i>Doing Business As</i> Gift of Life Michigan	
Plaintiff	Baltierra, Kimberly	Kathleen L. Bogas <i>Retained</i> (248) 502-5000(W)

EVENTS & ORDERS OF THE COURT

OTHER EVENTS AND HEARINGS	
05/07/2024	Complaint
05/07/2024	Jury Demand
05/07/2024	Summons Issued (Summons and Complaint)
05/07/2024	Summons
	Nicely, Bruce Unserved
05/07/2024	Summons Issued (Summons and Complaint)
05/07/2024	Summons
	Organ Procurement Agency of Michiga Unserved
05/13/2024	Proof of Service - Summons and Complaint (ACK or Personal)
05/13/2024	Proof of Service - Summons and Complaint (ACK or Personal)

FINANCIAL INFORMATION

Plaintiff Baltierra, Kimberly			
Total Financial Assessment			260.00
Total Payments and Credits			260.00
Balance Due as of 05/30/2024			0.00
05/07/2024	Transaction Assessment		175.00
05/07/2024	E-File	Receipt # EFILE-2024-02674	Bogas & Koncius, PC (175.00)
05/07/2024	Transaction Assessment		85.00
05/07/2024	E-File	Receipt # EFILE-2024-02675	Bogas & Koncius, PC (85.00)

EXHIBIT D

**STATE OF MCHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WASHTENAW**

KIMBERLY BALTIERRA,

Plaintiff

v.

Case No. 24-000558-CD

Hon. Julia B. Owdziej

ORGAN PROCUREMENT AGENCY
OF MICHIGAN, a Michigan Corporation,
d/b/a GIFT OF LIFE MICHIGAN,
and BRUCE NICELY, individually,

Defendants.

Kathleen L. Bogas (P25164)
BOGAS & KONCIUS P.C
31700 Telegraph Road, Suite 160
Bingham Farms, MI 48025
(248) 502-5000
office@kbogaslaw.com
Attorneys for Plaintiff

Brett J. Miller (P68612)
BUTZEL LONG, a professional corporation
150 W. Jefferson, Suite 100
Detroit, MI 48226
P: 313-225-5316 / F: 313-225-7080
millerbr@butzel.com
Attorneys for Defendants

NOTICE OF FILING NOTICE OF REMOVAL

TO: Clerk, Wayne County Circuit Court

Kathleen L. Bogas (P25164)
BOGAS & KONCIUS P.C
31700 Telegraph Road, Suite 160
Bingham Farms, MI 48025
(248) 502-5000
office@kbogaslaw.com
Attorneys for Plaintiff

PLEASE TAKE NOTICE that Defendants ORGAN PROCUREMENT AGENCY OF MICHIGAN, a Michigan Corporation, d/b/a GIFT OF LIFE MICHIGAN, and BRUCE NICELY, individually, have on May 30, 2024, removed this action to the United States District

Court for the Eastern District of Michigan pursuant to 28 U.S.C. §§ 1331, 1441, and 1446. A copy of the Notice of and Petition for Removal, which has been filed with the United States District Court, is attached as Exhibit A.

Respectfully submitted,

BUTZEL LONG, P.C.

By: /s/ Brett J. Miller

Brett J. Miller (P68612)

BUTZEL LONG, a professional corporation

150 W. Jefferson, Suite 100

Detroit, MI 48226

P: 313-225-5316 / F: 313-225-7080

millerbr@butzel.com

Attorneys for Defendants

Dated: May 30, 2024

CERTIFICATE OF SERVICE

I hereby certify that on May 30, 2024, I electronically filed the foregoing document with the Clerk of the Court using the electronic filing system, and a copy of same was mailed by United States Postal Service to:

Kathleen L. Bogas
BOGAS & KONCIUS P.C
31700 Telegraph Road, Suite 160
Bingham Farms, MI 48025

By: /s/ Brett J. Miller

Brett J. Miller (P68612)